

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

STATE OF NEW YORK, *et al.*,

Plaintiffs,

v.

UNITED STATES DEPARTMENT OF  
HEALTH AND HUMAN SERVICES, *et al.*,

Defendants.

Civil Action No. 1:20-cv-5583-AKH

**DECLARATION OF JOSEPH J. WARDENSKI**

I, Joseph J. Wardenski, pursuant to penalty of perjury under 28 U.S.C. § 1746, hereby state the following:

I am an attorney in the Office of the New York State Attorney General and counsel to Plaintiffs in this action. I submit this Declaration in connection with Plaintiffs' Motion for Partial Summary Judgment [ECF No. 62] and accompanying Memorandum of Law [ECF No. 63].

Attached to this declaration are true and correct copies of the following numbered exhibits:

1. U.S. Dep't of Health & Human Services, *HHS Action Plan to Reduce Racial and Ethnic Health Disparities* (2011)
2. *Franciscan Alliance v. Azar*, No. 7:16-cv-00108, Order Modifying Final Judgment (N.D. Tex. Nov. 21, 2019)
3. Letter from Lyle W. Cayce to Luke William Goodrich (Aug. 11, 2020)
4. *Walker v. Azar*, No. 1:20-cv-02834, Electronic Order (E.D.N.Y. Sept. 8, 2020)
5. Declaration of Ricardo Lara, Insurance Commissioner, California Department of Insurance (Aug. 3, 2020)

6. Declaration of Kevin Kish, Director, California Department of Fair Employment and Housing (Jul. 24, 2020)
7. Declaration of Kim Bimestefer, Executive Director, Colorado Department of Health Care Policy and Financing (Aug. 28, 2020)
8. Declaration of Michael Conway, Insurance Commissioner, Colorado Division of Insurance (Aug. 21, 2020)
9. Declaration of Tanya Hughes, Executive Director, Connecticut Commission on Human Rights and Opportunities (Aug. 20, 2020)
10. Declaration of Cassandra Codes-Johnson, Associate Deputy Director, Delaware Department of Health and Social Services, Division of Public Health (Aug. 20, 2020)
11. Declaration of Romona S. Fullman, Director, Delaware Division of Human Relations (Aug. 24, 2020)
12. Declaration of Mila Kofman, Executive Director, District of Columbia Health Benefit Exchange Authority (Aug. 24, 2020)
13. Declaration of Robert A. Planthold, Assistant General Counsel, Illinois Department of Insurance (Aug. 21, 2020)
14. Declaration of Mary M. Madden, Chief Legal Counsel and Ethics Officer, Illinois Department of Human Rights (Aug. 20, 2020)
15. Declaration of Amy M. Sneirson, Executive Director, Maine Human Rights Commission (Aug. 24, 2020)
16. Declaration of Leana E. Amáez, Director of Diversity, Equity, and Inclusion, Maine Department of Health and Human Services (Aug. 21, 2020)
17. Declaration of Alvin O. Gillard, Executive Director, Maryland Commission on Civil Rights (Jul. 27, 2020)
18. Declaration of Michele Eberle, Executive Director, Maryland Health Benefit Exchange (Aug. 14, 2020)
19. Declaration of Sharon C. Boyle, Esq., General Counsel, Massachusetts Executive Office of Health and Human Services (Aug. 28, 2020)
20. Declaration of Kevin Beagan, Deputy Commissioner, Massachusetts Division of Insurance, Health Care Access Bureau (Aug. 24, 2020)
21. Declaration of Sunila Thomas George, Chairwoman, Massachusetts Commission Against Discrimination (Aug. 10, 2020)

22. Declaration of Zecharias Hailu, Director, Minnesota Department of Human Services, Equal Opportunity and Access Division (Aug. 24, 2020)
23. Declaration of Irina Vaynerman, Deputy Commissioner, Minnesota Department of Human Rights (Aug. 14, 2020)
24. Declaration of Brooke Maylath, Health Facility Inspector II, Nevada Department of Health and Human Services, Division of Public and Behavioral Health (Aug. 21, 2020)
25. Declaration of Amanda Medina-Forrester, Executive Director, New Jersey Department of Health, Office of Minority and Multicultural Health (Aug. 28, 2020)
26. Declaration of Magda Schaler-Haynes, Senior Advisor, New Jersey Division of Consumer Affairs (Aug. 24, 2020)
27. Declaration of Nicole Comeaux, Director, New Mexico Human Services Department, Medical Assistance Division (Sep. 3, 2020)
28. Declaration of Kathyleen Kunkel, Cabinet Secretary, New Mexico Department of Health (Aug. 17, 2020)
29. Declaration of John Powell, Director of Rate Review and Acting Deputy Superintendent, New York State Department of Financial Services (Sep. 4, 2020)
30. Declaration of Trisha Schell-Guy, Acting General Counsel, New York State Office of Addiction Services and Supports (Aug. 31, 2020)
31. Declaration of Walker Wilson, Assistant Secretary for Policy, North Carolina Department of Health and Human Services (Aug. 29, 2020)
32. Declaration of Ana Novais, Assistant Secretary, Rhode Island Executive Office of Health and Human Services (Sept. 8, 2020)
33. Declaration of Patrick M. Allen, Director, Oregon Health Authority (Aug. 18, 2020)
34. Declaration of Adaline Strumolo, Deputy Commissioner, Department of Vermont Health Access (Aug. 28, 2020)
35. Declaration of Delegate Danica Roem, Virginia House of Delegates (Aug. 28, 2020)
36. Declaration of Karen Kimsey, Director, Virginia Department of Medical Assistance Services (Aug. 20, 2020)
37. Declaration of Melissa Black, Special Assistant to the Director, Illinois Department of Healthcare and Family Services (Aug. 21, 2020)
38. Declaration of Nathan Houdek, Deputy Commissioner, Wisconsin Office of the Commissioner of Insurance (Aug. 21, 2020)

39. Declaration of Jacey Cooper, Chief Deputy Director for Health Care Programs and State Medicaid Director, California Department of Health Care Services (Jul. 24, 2020)
40. Nondiscrimination Regarding Coverage for Insureds Who Are Transgender or Gender Dysphoric, Wi. Off. of Comm'r of Ins. (June 29, 2020)
41. Expert Witness Declaration of Jaclyn White Hughto, PhD, MPH (Sep. 9, 2020)
42. Declaration of Elena Rose Vera, Executive Director, Trans Lifeline (June 30, 2020)
43. Declaration of Carrie Davis, Chief Community Officer, The Trevor Project (Jul. 21, 2020)
44. Declaration of Ted Lewis, Executive Director, Side by Side (Aug. 19, 2020)
45. Declaration of James D. Jones, Administrator, Wisconsin Department of Health Services, Division of Medicaid Services (Aug. 21, 2020)
46. Declaration of Jessica K. Altman, Commissioner, Pennsylvania Insurance Department (Sep. 3, 2020)
47. Declaration of Teresa Miller, Secretary, Pennsylvania Department of Human Services (Sep. 4, 2020)
48. Declaration of Mark Starr, Acting Deputy Director, California Department of Public Health, Office of Health Equity (Jul. 27, 2020)
49. Declaration of Rachel Levine, M.D., Secretary, Pennsylvania Department of Health (Sep. 3, 2020)
50. Declaration of Tracy Dolan, Deputy Health Commissioner, Vermont Department of Health (Aug. 28, 2020)
51. Declaration of Brenda Jegede, Manager, Michigan Department of Health and Human Services, Office of Equity and Minority Health (Aug. 18, 2020)
52. Declaration of Kathryn E. Macomber, Director, Michigan Department of Health and Human Services, Division of HIV and STD Programs (Aug. 27, 2020)
53. Comment of National Alliance of State & Territorial AIDS Directors, HHS-OCR-2019-0007-141103
54. Comment of National Association of Pediatric Nurse Practitioners, HHS-OCR-2019-0007-147464
55. Comment of Jim Collins Foundation, Inc., HHS-OCR-2019-0007-155600
56. Comment of Yale New Haven Pediatric Gender Clinic, HHS-OCR-2019-0007-151677

57. Comment of Mount Sinai Health System, HHS-OCR-2019-0007-97087
58. Comment of American College of Obstetricians & Gynecologists, HHS-OCR-2019-0007-137190
59. Comment of National Latina Institute for Reproductive Health, HHS-OCR-2019-0007-147402
60. Comment of National Health Law Program, HHS-OCR-2019-0007-127004
61. Comment of Endocrine Society, HHS-OCR-2019-0007-137213
62. Comment of American Medical Association, HHS-OCR-2019-0007-153453
63. Comment of American Academy of Pediatrics & Society for Adolescent Health & Medicine, HHS-OCR-2019-0007-139520
64. Comment of American Hospital Association., HHS-OCR-2019-0007-138871
65. Comment of Children's Hospital Association, HHS-OCR-2019-0007-127399
66. Comment of National Ctr. For Lesbian Rights, HHS-OCR-2019-0007-137444
67. Comment of Physicians for Reproductive Health, HHS-OCR-2019-0007-145253
68. Comment of Ctr. for Reproductive Rights, HHS-OCR-2019-0007-150549
69. Comment of Advocates for Youth, HHS-OCR-2019-0007-147439
70. Comment of Chronic Illness & Disability Partnership, HHS-OCR-2019-0007-148283
71. Comment of Lambda Legal, HHS-OCR-2019-0007-154936
72. Comment of ACLU of Michigan, HHS-OCR-2019-0007-145416
73. Comment of Elisa Uhrynowski, HHS-OCR-2019-0007-66608
74. Comment of James Williamson, HHS-OCR-2019-0007-151186
75. Collected Stories in Response to 2013 RFI, HHS-OCR-2013-0007-0040
76. Comment of Anonymous, HHS-OCR-2013-0007-0016
77. Comment of National Center for Transgender Equality, HHS-OCR-2019-0007-153312
78. Comment of Williams Institute, HHS-OCR-2019-0007-153416
79. Comment of NARAL Pro-Choice Oregon Foundation, HHS-OCR-2019-0007-151658

80. Comment of National LGBTQ Task Force, HHS-OCR-2019-0007-114943
81. Comment of Gender Justice, HHS-OCR-2019-0007-153601
82. Comment of Whitman-Walker Health, HHS-OCR-2013-0007-0063
83. Comment of Transgender Legal Defense & Education Fund, HHS-OCR-2013-0007-0158
84. Comment of Kellan E. Baker, HHS-OCR-2019-0007-151235
85. Comment of Matthew Gray Brush, HHS-OCR-2019-0007-73850
86. Comment of Christina Cooper, HHS-OCR-2019-0007-154985
87. Comment of Anonymous, HHS-OCR-2019-0007-154985
88. Comment of Bethany Olson, HHS-OCR-2019-0007-155886
89. Comment of Emelia Dominguez, HHS-OCR-2019-0007-154985
90. Comment of Chase Cramer, HHS-OCR-2019-0007-25057
91. Comment of National Center for Transgender Equality, HHS-OCR-2013-0007-0155
92. Comments of 22 States, HHS-OCR-2019-0007-142194
93. Comment of City of New York, HHS-OCR-2019-0007-150529
94. Comment of City of Oakland, HHS-OCR-2019-0007-151126
95. Comment of California Department of Insurance, HHS-OCR-2019-0007-147671
96. Comment of California Health & Human Services Agency, HHS-OCR-2019-0007-149514
97. Comment of National Asian Pacific Women's Forum, HHS-OCR-2019-0007-147503
98. Comment of NARAL Pro-Choice America, HHS-OCR-2019-0007-138414
99. Comment of National Hispanic Leadership Agenda, HHS-OCR-2019-0007-147313
100. Comment of Law and Religion Scholars, HHS-OCR-2019-0007-138646
101. Comment of American Medical Student Association, HHS-OCR-2019-0007-127240
102. Comment of Association of American Medical Colleges, HHS-OCR-2019-0007-115960

103. Comment of HIV Health Care Access Working Group, HHS-OCR-2019-0007-146758
104. Comment of Planned Parenthood Federation of America & Planned Parenthood Action Fund, HHS-OCR-2019-0007-154878
105. Comment of Center for American Progress, HHS-OCR-2019-0007-146956
106. Comment of Human Rights Watch, HHS-OCR-2019-0007-134881
107. Comment of National Institute For Reproductive Health, HHS-OCR-2019-0007-151646
108. Comment of Maine Family Planning, HHS-OCR-2019-0007-146079
109. Comment of American Psychiatric Association, HHS-OCR-2019-0007-107673

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on September 10, 2020.

/s/ Joseph J. Wardenski

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